

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

June 9, 2011 Meeting

Agenda Item 3

SUBJECT: Dry Dock Restaurant - PA2011-005
2601 West Coast Highway
Conditional Conditional Use Permit No. UP2011-001

APPLICANT: G.E.P. Enterprise Group

PLANNER: Fern Nueno, Assistant Planner
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PROJECT SUMMARY

A conditional use permit application for a food service restaurant with late hours, live entertainment, alcohol sales, outdoor dining, and delivery. The application also includes a request for a parking management plan to address off-site parking, valet, and an adjustment to the off-street parking requirements. The proposed hours of operation for dining and delivery are 11:00 a.m. to 2:00 a.m., daily.

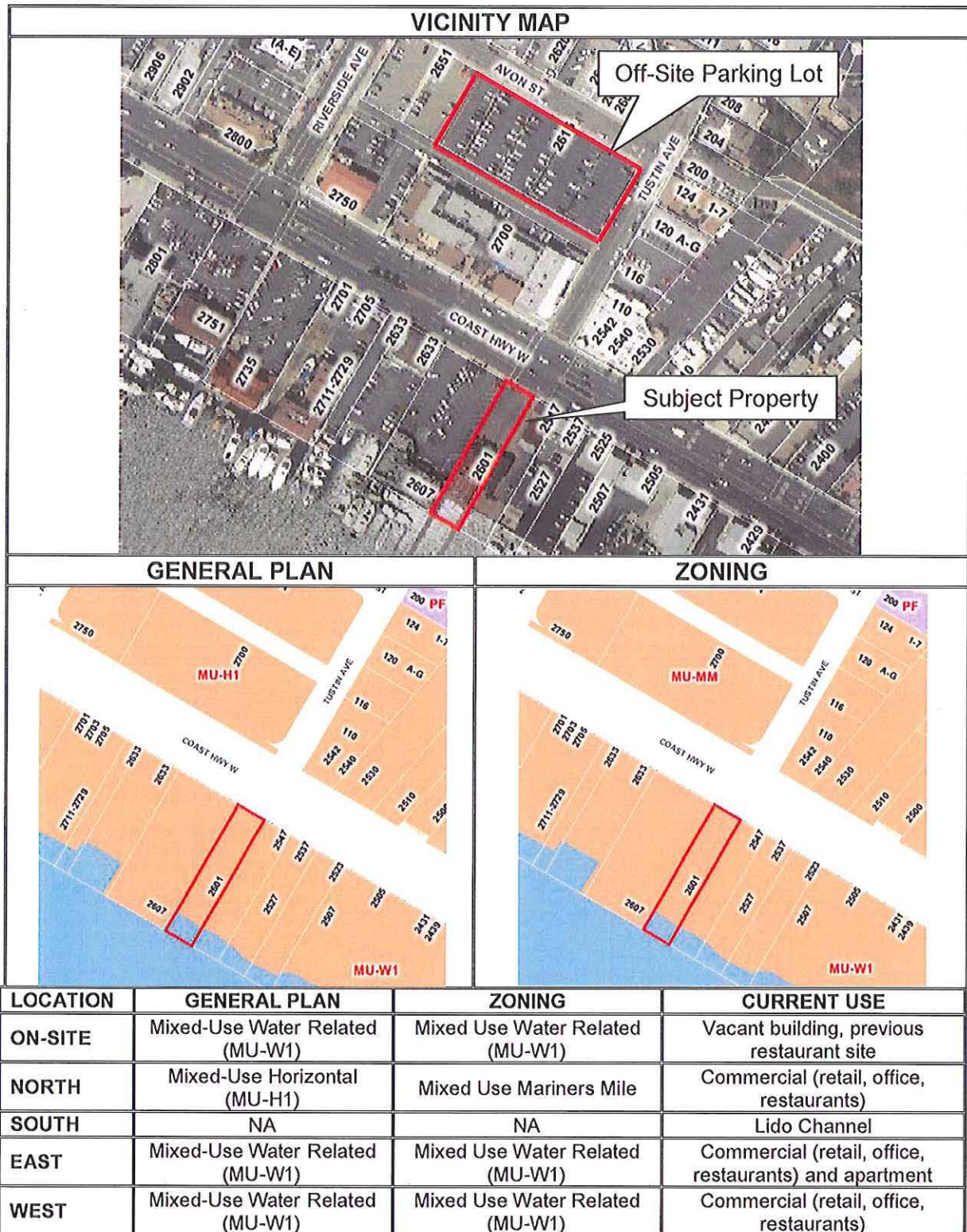
RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ approving Conditional Use Permit No. UP2011-001 No. (Attachment No. PC 1).

INTRODUCTION

Project Setting

The subject property is located on the south side of Coast Highway, directly across from Tustin Avenue, within Mariner's Mile. The property is approximately 11,949 square feet in area (50 feet wide by 240 feet deep), including a small portion that is submerged. The lot is developed with a 3,987 square foot single-story commercial restaurant building, a surface parking lot with twelve (12) parking spaces, and a boat slip. Mariners' Mile is a mixed-use area developed with primarily commercial and marine uses.



Project Description

The applicant requests a conditional use permit for a food service restaurant with late hours, live entertainment, alcohol sales, and outdoor dining. The applicant proposes to provide high quality barbeque for sit-down meal service and delivery. The proposed hours of operation are 11:00 a.m. to 2:00 a.m., daily. Delivery is proposed during the same hours that the restaurant is in operation. Live entertainment is proposed on Saturdays and Sundays from 2:00 p.m. to 7:00 p.m. Dancing is not requested. The applicant is requesting a Type 47 (beer, wine, distilled spirits) Alcoholic Beverage Control (ABC) License, which is for on-sale general eating place.

The application also includes a request for a parking management plan to address off-site parking, valet, and an adjustment to the off-street parking requirements. The applicant proposes to secure 20 parking spaces in an off-site lot located at Tustin Avenue and Avon Street and to provide valet parking beginning at 6:00 p.m., daily. The Zoning Code requires one (1) parking space for every 30-50 square feet of net public area, so the requirement is between 35 and 58 parking spaces. Therefore, there will be a deficiency of between 3 and 26 parking spaces.

The applicant proposes some interior alterations to the restaurant, primarily in the kitchen area. The bar and seating areas will remain generally the same as when the building was operated as Josh Slocum's. The existing building is 3,987 square feet in gross floor area, with 1719 square feet of net public (seating and customer) area and it accommodates approximately 80 seats. The addition of a waiting area/outdoor patio is requested outside of the main entrance facing the parking lot. This outdoor dining area will be 25 percent or less of the interior net public area.

Background

The existing restaurant was originally established in 1968, prior to the requirement of a use permit for eating and drinking establishments. The site was zoned C-O-Z (Limited Commercial) which permitted restaurants provided that they met the parking requirement of one space for every three seats. At that time, the site had a total of 22 on-site parking spaces to accommodate a 66-fixed seat restaurant. Subsequently, various owners/operators have increased the seating and applied for six (6) off-site parking agreements over the years.

On October 23, 1986, the Planning Commission granted Use Permit No. UP3239 authorizing the expansion in the hours of operation of the restaurant permitting it to open at 11:00 a.m. However, in 1989, staff documented the fact that the restaurant never took advantage of the increased hours of operation, and pursuant to the conditions of approval and the Municipal Code, the Use Permit became void 24 months after its approval. The existing restaurant, thereby, had a nonconforming right to operate as a restaurant subject to the operational characteristics and restrictions of a previous off-site parking agreement because the 1986 Use Permit was void.

In 2001, the restaurant began changing its business operations by providing live music and dancing after dining hours. Table and chairs were cleared from the main dining room creating a dancing area for patrons. Recorded music was played by disc jockeys and live bands performed on weekends. The Police Department documented on several occasions that live bands have performed with sound amplification. There are no records that a Café Dance Permit and/or a Live Entertainment Permit have ever been sought or issued. The addition of live entertainment and dancing substantially changed the restaurant's original operational characteristics and a use permit was required.

On September 16, 2003, the operator filed a use permit application (UP2003-220) to allow the existing establishment to operate as a full-service restaurant and to have a nightclub operation with live entertainment and dancing nightly between the hours of 9:00 p.m. to 2:00 a.m. The application also included a modification of parking requirements because there had been a reduction in on-site parking and the combined total spaces provided on and off-site did not meet code requirements.

On May 6, 2004, the Planning Commission approved a use permit to allow the expansion of the existing restaurant and denied the request to allow the property to operate as a nightclub. The approval allowed the restaurant to increase the occupancy from 133 to 143 persons and to waive three (3) parking spaces.

On May 20, 2004, the applicant appealed the Planning Commission's decision to the City Council, due to the denial of the nightclub portion of the request. After requests for more information and continuance of the item, on August 24, 2004, the City Council denied the appeal and upheld and affirmed the decision of the Planning Commission.

Use Permit No. UP2003-220 was never exercised and subsequently expired; therefore no active use permit exists for this property.

DISCUSSION

Analysis

Consistency with General Plan, Coastal Land Use Plan, and Zoning Code

The subject property is designated as Mixed-Use Water Related (MU-W1) by the Land Use Element of the General Plan, which is applied to waterfront locations along Mariners' Mile Corridor in which marine-related, visitor-serving, commercial, and residential uses are allowed. The proposed project is consistent with this designation as eating and drinking establishments are visitor-serving and commercial uses. The proposed project will also have space for approximately ten (10) boats, available for patrons who choose to take a boat to the restaurant. Furthermore, Land Use Policy LU 6.19.2 (Bay Fronting Properties) encourages marine-related and visitor-serving retail,

restaurant, hotel, institutional, and recreational uses, with some allowance for residential uses.

The Coastal Land Use Plan designates the site as Mixed Use Water Related (MU-W), which is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses and visitor-serving uses, as well as allow for the development of mixed-use structures with residential uses above the ground floor. The proposed eating and drinking establishment is consistent with this designation.

The Mixed-Use land use designation is implemented by the Mixed Use Water Related (MU-W1) Zoning District. Eating and drinking establishments designated as "Food Service, Late Hours" are allowed with Planning Commission or City Council approval of a conditional use permit. Facilities open to the public past 11:00 p.m. any day of the week are defined by the Zoning Code as establishments with late hours.

Outdoor Dining

The proposed outdoor dining will be located outside of the front entrance facing the parking lot. In addition to acting as an outdoor dining area, the patio will also act as a waiting area for customers waiting to be seated or those picking up to-go orders. The interior net public area proposed is 1,719 square feet, and the Zoning Code allows outdoor dining areas up to 25 percent of the interior net public area without an increase in the parking requirement. Therefore, the applicant has requested an outdoor dining area of 429 square feet (25 percent). The project plans show 480 square feet of outdoor seating area, but should the project be approved, the size would be reduced to 429 square feet or 25 percent of the interior net public area. Because of the existing configuration of the restaurant, the applicant does not think adequate room is available in the corridor for customers to wait for a table. The corridor contains the restrooms and leads to the host stand, bar, and dining area. For this reason, the outdoor dining area is proposed to alleviate potential crowding in the entry corridor. People waiting for a table or to-go orders may be offered beverages while they wait.

Hours of Operation

Pursuant to Section 20.48.090 of the Zoning Code, the Planning Commission must consider the following potential impacts upon adjacent or nearby uses when reviewing an application to allow late-hour operations:

1. *Noise from music, dancing, and voices associated with allowed outdoor uses and activities;*
2. *High levels of lighting and illumination;*

3. *Increased pedestrian and vehicular traffic activity during late and early morning hours;*
4. *Increased trash and recycling collection activities;*
5. *Occupancy loads of the use; and*
6. *Any other factors that may affect adjacent or nearby uses.*

The proposed hours of operation for restaurant dining and delivery are 11:00 a.m. to 2:00 a.m., daily. Possible noise impacts will be diminished because dancing is not proposed, thereby limiting the likelihood the establishment will evolve into a nightclub. Significant noise impacts from the proposed outdoor patio are not anticipated given the proposed location on the north side of the building facing the parking lot and West Coast Highway. The proposed use will not necessitate high levels of lighting or illumination and any outdoor lighting must conform to Zoning Code Section 20.30.070 (Outdoor Lighting). A temporary increase in traffic during late and early morning hours on weekends is expected along West Coast Highway; however, this portion of Coast Highway is a major road, so disturbances on residential streets are not expected to occur.

Should the Planning Commission approve the application, the applicant would be required to obtain an Operator License from the Police Department. The Operator License should provide for enhanced control of noise, loitering, litter, disorderly conduct, parking/circulation, and other potential disturbances resulting from the establishment, and will provide the Police Department with means to modify, suspend, or revoke the operator's ability to maintain late-hour operations.

Because of the distance to the nearest Residential Zoning District, the hours of operation for the restaurant and delivery service should not negatively impact the neighborhood. However, staff recommends a closing time of midnight for the outdoor dining area to diminish potential impacts regarding late night noise to neighbors down the street and above West Coast Highway, and any future mixed-use development.

Live Entertainment

The proposed live entertainment is requested for Saturdays and Sundays only from 2:00 p.m. to 7:00 p.m. The live entertainment will consist of a 2-3 piece group playing background music with amplification. Because of the proposed hours, the design of the restaurant, and the distance to the nearest residential uses, the proposed live entertainment should not be detrimental to the community. The restricted days and hours will prevent any potential late night impacts that could occur and will limit the possibility of the establishment having a nightclub atmosphere. Moreover, dancing is not proposed with this application. Approval of this Conditional Use Permit would not permit the establishment to operate as a bar, tavern, cocktail lounge, or nightclub, as

defined by the Municipal Code, despite the live entertainment and late operating hours. The interior dining area and bar are situated towards the water side of the property, and there is no patio along the water that would allow sounds to carry across the Lido Channel. A condition of approval has been included requiring the exterior windows to be maintained in the closed position after 11:00 p.m., daily. Although the Zoning does allow for mixed-use properties, there are not any occupied residential dwelling units in the vicinity. The property owner of the mixed-use structure to the east of the subject property has not expressed any concerns over the proposed use.

Alcohol Sales

When reviewing an application to allow an eating or drinking establishment to sell, serve, or give away alcohol, Section 20.48.090 (Eating and Drinking Establishments) of the Zoning Code requires the Planning Commission to evaluate the potential impacts upon adjacent uses (within 100 feet as measured between the nearest lot lines) and to consider the proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption. The adjacent uses are food service, retail sales, and general commercial uses, which are compatible with the proposed restaurant.

In order to approve a use permit for alcohol sales, the Planning Commission must also find that the use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales). In doing so, the follow must be considered:

- a) The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.
- b) The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.
- c) The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.
- d) The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.
- e) Whether or not the proposed amendment will resolve any current objectionable conditions.

Input has been provided by the Police Department, which has reviewed the application and does not object to the operations as proposed by the applicant. All crime rate data discussed below is from 2009. The subject property is located within Reporting District (RD) 25, which includes Mariners' Mile between Tustin Avenue and Old Newport Boulevard, and Newport Heights. Refer to Attachment No. PC 5 for a map of the Reporting Districts and the comments from the Police Department.

- a) The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.

Reporting District	Part One Crimes (Serious offenses)	Part Two Crimes (All other offenses)	Part One Crimes Rate (per 100,000 people)
25	113	88	3,868.87
24	155	120	3,096.60
16	167	107	6,003.49
Newport Beach	2,884	3,350	3,297.31

The number of part one and part two crimes within RD 25 is lower than in the adjacent Reporting Districts, RD 24 and RD 16. The part one crimes rate within RD 25 is greater than the RD 24 crimes rate and less than the RD 16 crimes rate. The part one crimes rate in RD 25 and RD 16 is higher than that of the City as a whole due to the high concentration of commercial uses in the area. RD 25 had a total of 248 reported crimes as compared to a City-wide reporting district average of 162 reported crimes. This reporting district had 86 more crimes and is 53.09 percent above the City-wide reporting district average.

- b) The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.

Reporting District	DUI/Drunk Arrests	Total Arrests	Calls for Service
25	47	113	3,049
24	79	220	3,898
16	110	323	3,261
Newport Beach	1,270	3,595	69,294

RD 25 has significantly fewer DUI/Drunk Arrests, Total Arrests, and Calls for Service compared with RD 24 and RD 16.

- c) The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.

The subject property is located within a mixed use district developed primarily with commercial uses. Across the Lido Channel, the closest residential district is approximately 800 feet away. To the north, the closest residential district is almost 500 feet away. The nearest park is located on Cliff Drive above West Coast Highway and is over 500 feet from the subject property. There are no day care centers, recreation facilities, places of religious assembly, or schools in close proximity to the subject property.

- d) The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.

Reporting District	Active ABC Licenses	Per Capita License Ratio
25	21	1 per 139 residents
24	9	1 per 556 residents
16	6	1 per 464 residents
County-wide	5,589	1 per 542 residents

The table above represents the number of active ABC licenses for RD 25, RD 24, RD 16, and the County of Orange. RD 25 has a greater number of licenses and per capita ratio than RD 24 and RD 16. The portion of Mariners' Mile where the subject property is located contains several other restaurants, which may explain the higher number of licenses. Other establishments in the area include Rolf's Wine, Joe's Crab Shack, Billy's at the Beach, Garlic Jo's, Jack Shrimp, China Palace, Villa Nova, Chart House, and the Rusty Pelican. A retail wine store is located across the street on the corner of Tustin Avenue and West Coast Highway.

- e) Whether or not the proposed amendment will resolve any current objectionable conditions.

There are no current objectionable conditions at the subject property. While the property has had some enforcement issues in the past, the proposed use is substantially different than previous uses, notably that no dancing is proposed and live entertainment would be limited to Saturdays and Sundays from 2:00 p.m. to 7:00 p.m. The proposed Conditional Use Permit will re-establish a restaurant use in a vacant building that has been inactive for years. Approval of this application will necessitate the operator to obtain an Operator License pursuant to Chapter 5.25 of the Municipal Code, issued by the Chief of Police.

Parking Requirement

The Zoning Code requires one (1) parking space for every 30-50 square feet of net public area, so the requirement is between 35 and 58 parking spaces. The applicant is supplying 12 on-site parking spaces and 20 off-site parking spaces; therefore, there will be a deficiency of between 3 and 26 parking spaces. Based on the operational characteristics and design of the establishment, staff is recommending a parking requirement of one (1) parking space for every 40 square feet of net public area. The proposed net public area is 1,719 square feet requiring 43 parking spaces leading to a parking waiver of eleven (11) parking spaces.

Section 20.40.060 (Parking Requirements for Food Service Uses) sets guidelines for establishing parking requirements. The following information on the design

characteristics, operational characteristics, and location of the establishment were used to determine the staff recommended (1/40) parking requirement. The applicant is making the dock slips available for public parking, increasing the amount of parking available for the use and promoting the water-related use encouraged in Mariners' Mile. The outdoor dining is limited to less than 25 percent of the interior net public area. The amount of floor area devoted to live entertainment is small, and no dancing is proposed. The establishment will have some television screens, but no pool tables or other attractions are proposed. The applicant proposes to provide high end barbeque that will most likely lead to a low turnover rate. There are other nearby uses that will lead to some walk-in trade. Off-site parking and valet is addressed in the draft Parking Management Plan (Attachment No. PC 3).

The Public Works Department reviewed the application and recommends that the proposed project provide all code-required parking as determined by the Planning Division at the on-site and secured off-site locations. This would mean the applicant would need to provide 11 additional parking spaces at a secured off-site location. Additionally, General Plan Land Use Element Policy LU 6.19.5 (Parking) states, "Require adequate parking and other supporting facilities for charters, yacht sales, visitor-serving, and other waterfront uses." However, staff believes that through the Parking Management Program that includes active parking lot management through valet operations, negative impacts from a reduction of on-site parking spaces can be reduced.

Parking Management Plan

A parking management plan is necessary to mitigate impacts associated with a reduction in the number of required parking spaces. The draft Parking Management Plan (Attachment No. PC 3) includes a requirement for off-site parking and valet operations. The applicant proposes to lease 20 parking spaces from the owner of the parking lot located at 2615 Avon Street. The draft Parking Management Plan requires that any change in the terms of the lease that would affect the 20 secured parking spaces be reviewed by the Community Development Director. The off-site parking lot is less than 500 feet away from the subject property. The lot contains 122 parking spaces and serves the uses located at 2700 West Coast Highway, which is developed with a 36,000-square-foot commercial building with 22 on-site parking spaces. This commercial building houses office and retail uses and no eating and drinking establishments. All 144 spaces are required for the uses at 2700 West Coast Highway. Staff conducted a parking survey of the off-site lot counting the number of cars parked in the lot at various times throughout the week. Survey times included peak lunch and dinner hours. The results demonstrate that the highest occupancy was 67 cars on a Thursday between noon and 1:00 p.m. The average number of cars counted throughout the two week survey was 40 (33 percent occupied).

While staff does not want to encourage the use of public parking for private use, Mariners' Mile does contain on-street parking and a municipal lot near the subject

property. The applicant included information on the metered and unmetered parking in the parking management plan submitted with the application (Attachment No. PC 2). Some of this information was incorporated into the draft Parking Management Plan. The parking survey conducted by staff also included a one (1) week survey of 91 nearby public parking spaces. Most of the spaces are metered and unmetered street parking, but 16 are located within a municipal parking lot near the Tustin Avenue and Avon Street intersection. The highest number of cars was counted on a Saturday night between 8:00 p.m. and 9:00 p.m. where 73 cars were parked within the 91 available spaces. The average number of cars counted throughout the survey period was 49 (53 percent occupied).

The parking survey demonstrated that parking is available in the off-site parking lot and in nearby public parking spaces. Furthermore, the parking study conducted in 2009 by Walker Parking Consultants concluded that overall the Mariners' Mile area does not have a parking shortage. The draft Parking Management Plan will ensure that off-site parking is available for the use and that valet operations eliminate any congestion that could occur in the area due to the restaurant operations. If the valet operations are insufficient to meet the needs of the proposed use, then the valet plan and Parking Management Plan will need to be modified and reviewed by the City Traffic Engineer and Community Development Director.

The valet service will be in operation during the busiest times for the restaurant. Valet attendants will be stationed in the middle of the on-site parking lot to avoid backup onto West Coast Highway. Valet attendants will be stationed at the subject property and at the off-site lot.

Economic Development

The Economic Development staff reviewed the application and supported the proposed Dry Dock project and hoped the Planning Commission would make every reasonable effort to approve the request. Economic Development staff agreed with the applicant's statement that special consideration of the site's parking deficiencies should be granted, given that the conditions of the site and operations have not changed significantly from previous restaurant operations in this location. Finally, staff believed that the restaurant's location in the heart of a commercial area along Coast Highway is appropriate for an operation with extended hours of operation and live entertainment.

Required Findings

Section 20.52.020 (F) (Conditional Use Permits and Minor Use Permits), Section 20.40.100 (B) (Off-Site Parking), and Section 20.48.030 (C) (Alcohol Sales) of the Zoning Code require certain findings to be made in order to approve the project. In order to grant approval of the Conditional Use Permit, the Planning Commission must make each of the following findings:

1. *The use is consistent with the General Plan and any applicable specific plan;*
2. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*
3. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*
4. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*
5. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*
6. *The proposed use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales).*
7. *The parking facility is located within a convenient distance to the use it is intended to serve.*
8. *On-street parking is not being counted towards meeting parking requirements.*
9. *Use of the parking facility will not create undue traffic hazards or impacts in the surrounding area.*
10. *The parking facility will be permanently available, marked, and maintained for the use it is intended to serve.*

Staff believes that findings for approval can be made, and facts in support of the required findings are included in the draft resolution (Attachment No. PC 1). The operation of a "Food Service, Late Hours" use with alcohol sales is consistent with the purpose and intent of the Mixed-Use Water Related (MU-W1) designation of the General Plan and Zoning Code. The use is compatible with the neighborhood because the Mariners' Mile area is an established commercial area with several similar uses nearby. The existing site is located on a major road and has been utilized for restaurant uses since 1968. It should be noted that this area may see future residential development based upon the recently applied mixed use land use designation. Those projects could only be developed on lots that are a minimum of 200 feet wide; therefore, it is unlikely that such a project would abut the project site given that the lot width of abutting sites is less than 200 feet.

The applicant proposes an emphasis on upscale delivery that will specialize in items that travel well, such as baby back ribs. The delivery vehicle will load and unload on site and will not be parked in the public right-of-way. Conditions of approval related to standard operations for eating and drinking establishments have been included for the overall operations of the proposed restaurant. Conditions are included related to on-sale alcoholic beverage activities, including training of personnel who sell or serve alcoholic beverages. Adequate parking is maintained and provided by valet service in conformance with the draft Parking Management Plan. Potential noise impacts will be diminished because live entertainment is not proposed during late hours or on weekdays and dancing is not proposed. Staff recommended a condition of approval requiring the Conditional Use Permit to be reviewed by the Planning Commission within one (1) year of the restaurant being in operation in order to monitor the parking and restaurant operations and to ensure that the use has not been detrimental to the community.

The Police Department indicates it has no objections to the applicant's request. The ABC License will be conditioned appropriately to protect the health, safety, and welfare of the community. To ensure the proposed use does not create a detrimental impact during late hours, the applicant (and any future operators of the existing eating and drinking establishment) will be required to obtain an Operator License issued by the Chief of Police pursuant to Chapter 5.25 of the Municipal Code. Additionally, the applicant will be required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance, should they occur, to areas surrounding the restaurant and adjacent properties during business hours. If the operator is unable to abide by the conditions of approval, or prevent objectionable conditions from occurring, the Police Department will have the authority to modify, suspend, or revoke the operator's ability to maintain late-hour operations, or require other corrective measures. The Police Department provided alcohol related crime statistics that help to demonstrate that the project should not prove to be a detriment.

The off-site parking lot is located within 500 feet of the subject property. Employees who drive to work will be required to park in the off-site parking lot. Use of the lot will not create undo traffic hazards because most patrons will be able to utilize the valet service and the valet plan will be reviewed and approved by the City Traffic Engineer. The leased parking spaces will be clearly marked so that the valet service employees and restaurant patrons will know which spaces are available for the restaurant use at the subject property.

Summary

The subject property and structure have historically been uses as a restaurant. The applicant proposes minor alterations to the property with the floor plan remaining generally unchanged. Conditional Use Permit approval is required for the restaurant operation and must address the restaurant use, late hours, alcohol sales, live entertainment, outdoor dining, delivery operation, and parking. The proposed project is

in conformance with the General Plan and other City policies and with the proposed conditions of approval, it is not anticipated to be detrimental to the community.

Alternatives

1. The Planning Commission may suggest specific operational changes that are necessary to alleviate any concerns. If the changes are substantial, the item should be continued to a future meeting.
2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission should deny the application.

Environmental Review

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities), which exempts minor alterations to existing facilities. The existing building will remain with no additional square footage. The scope of the physical construction is limited to minor alterations. The building was previously used as an eating and drinking establishment and any changes in operational characteristics are negligible.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared by:

Submitted by:


Fern Nueno, Assistant Planner


Gregg B. Ramirez, Senior Planner

ATTACHMENTS

- PC 1 Draft Resolution with Findings and Conditions
- PC 2 Applicant's Project Description
- PC 3 Parking Management Plan
- PC 4 Parking Counts
- PC 5 Reporting District Map and Crime Statistics
- PC 6 Project plans

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Attachment No. PC 1

Draft Resolution with Findings and
Conditions

RESOLUTION NO. #####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING CONDITIONAL USE PERMIT NO. UP2011-001 FOR A FOOD SERVICE RESTAURANT WITH LATE HOURS, LIVE ENTERTAINMENT, ALCOHOL SALES, OUTDOOR DINING, AND DELIVERIES; AND A PARKING MANAGEMENT PLAN TO ADDRESS OFF-SITE PARKING, VALET, AND AN ADJUSTMENT TO THE OFF-STREET PARKING REQUIREMENTS FOR PROPERTY LOCATED AT 2601 WEST COAST HIGHWAY (PA2011-005)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by G.E.P. Enterprise Group, with respect to property located at 2601 West Coast Highway, and legally described as the northwesterly 50 feet of the southeasterly 1300 feet of Lot H of Tract 919 requesting approval of a Conditional Use Permit.
2. The applicant proposes a food service restaurant with late hours, live entertainment, alcohol sales, outdoor dining, and delivery. The applicant also proposes a parking management plan to address off-site parking, valet, and an adjustment to the off-street parking requirements.
3. The parking requirement is one (1) parking space for every 40 square feet of net public area. The net public area proposed is 1,719 square feet; therefore the parking requirement is 43 spaces. The applicant is providing 12 spaces on-site and 20 spaces off-site for a total of 32 parking spaces.
4. The subject property is located within the Mixed Use Water Related (MU-W1) Zoning District and the General Plan Land Use Element category is Mixed Use Water Related (MU-W1).
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed Use Water Related (MU-W).
6. A public hearing was held on June 9, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
2. Class 1 exempts minor alterations to existing facilities. The proposed project consists of interior alterations and minor changes in operational characteristics from previous restaurant operations at this site.

SECTION 3. REQUIRED FINDINGS.

In accordance with Sections 20.52.020, 20.48.030, and 20.40.100 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. The use is consistent with the General Plan and any applicable specific plan.

Facts in Support of Finding:

- A-1. The subject property is designated as Mixed-Use Water Related (MU-W1) by the Land Use Element of the General Plan, which is applied to waterfront locations along Mariners' Mile Corridor in which marine-related, visitor-serving, commercial, and residential uses are allowed. The proposed project is consistent with this designation as eating and drinking establishments are visitor-serving and commercial uses. The proposed project will also have space for approximately ten (10) boats, available for patrons who choose to take a boat to the restaurant. Furthermore, Land Use Policy LU 6.19.2 (Bay Fronting Properties) encourages marine-related and visitor-serving retail, restaurant, hotel, institutional, and recreational uses, with some allowance for residential uses.
- A-2. The subject property is not located in a specific plan area.

Finding:

B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.

Facts in Support of Finding:

- B-1. The subject property is located within the Mixed Use Water Related (MU-W1) Zoning District, which applies to waterfront properties along the Mariners' Mile Corridor in which nonresidential uses and residential dwelling units may be intermixed. Eating and drinking establishments designated as "Food Service, Late Hours" are allowed with approval of a conditional use permit. Facilities open to the public past 11:00 p.m. any day of the week are considered establishments with late hours. The proposed project is consistent with this designation.

- B-2. As conditioned, the proposed project complies with Section 20.48.090 (Eating and Drinking Establishments) in regards to the operating standards.
- B-3. Section 20.40.060 (Parking Requirements for Food Service Uses) establishes criteria to determine the parking requirement for food uses from one (1) parking space for every 30-50 square feet of net public area. Based on the physical design characteristics, operational characteristics, and location of the establishment, a parking requirement of one (1) space for every 40 square feet of net public area is sufficient. The applicant is making the dock slips available for patron use, increasing the accessibility to the use. The outdoor dining is limited to less than 25 percent of the interior net public area. The amount of floor area devoted to live entertainment is relatively small, and no dancing is proposed. The applicant proposes to provide high end barbeque that will likely lead to a low turnover rate. There are other nearby uses that will lead to some walk-in trade. Off-site parking and valet are addressed in the Parking Management Plan.
- B-4. Pursuant to Section 20.40.110 (Adjustments to the Off-Street Parking Requirements), the Parking Management Plan will be implemented to mitigate impacts associated with a reduction in the number of required parking spaces. The Parking Management Plan and valet plan will result in a highly efficient use of the parking spaces available to the restaurant patrons. The parking survey conducted by staff demonstrated that the off-site lot on average contained 40 vehicles out of 122 available spaces (33 percent occupied). The parking survey conducted by staff also demonstrated that the 91 nearby public parking spaces were on average 53 percent occupied. The 2009 parking study by Walker Parking Consultants concluded that overall the Mariners' Mile area does not have a parking shortage. Therefore, the off-site parking agreement will not impact the use of the parking lot by the employees and patrons of 2700 West Coast Highway.

Finding:

- C. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

- C-1. The proposed project is located within a nonresidential zoning district. The parking lot and primary openings to the restaurant are oriented towards West Coast Highway. The outdoor dining area faces the parking lot. The operational characteristics are that of a restaurant, and the establishment will not be used exclusively as a bar or nightclub, as defined by the Zoning Code.

Finding:

D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.

Facts in Support of Finding:

D-1. The lot is approximately 50 feet wide by 240 feet deep (11,949 square feet in area including partially submerged land), and is developed with a 3,987-square-foot single-story commercial building, a surface parking lot with twelve (12) parking spaces, and a boat slip. The existing building and parking lot have functioned satisfactorily in the past with the current configuration. The proposed project includes interior alterations and an outdoor patio, which will not negatively affect emergency access. The lot is an interior lot and has multiple doors and windows for ingress and egress. The building is located six feet from the easterly property line, so there is sufficient room for emergency access.

Finding:

E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding:

- E-1. The use is compatible with the neighborhood because the Mariners' Mile area is an established commercial area with several similar uses nearby. The existing site is located on a major road and has been utilized for restaurant uses since 1968.
- E-2. The project has been reviewed and conditioned to ensure that potential conflicts with surrounding land uses are minimized to the extent possible to maintain a healthy environment for residents and businesses.
- E-3. The closest residential district is 500 feet away and the closest residential district across Lido Channel is 800 feet away from the subject property.
- E-4. Adequate parking is maintained and will be provided by valet service in conformance with the Parking Management Plan.
- E-5. Potential noise impacts will be diminished because live entertainment is not proposed during late hours or on weekdays.
- E-6. The Police Department indicates it has no objections to the applicant's request. To ensure the proposed use does not create a detrimental impact during late hours, the applicant (and any future operators of the existing eating and drinking establishment)

will be required to obtain an Operator License issued by the Chief of Police pursuant to Chapter 5.25 of the Municipal Code.

- E-7. The proposed outdoor dining will be located outside of the front entrance facing the parking lot and will be open no later than midnight, daily.
- E-8. The property has been vacant for several years and re-establishing a restaurant use will help to revitalize the Mariners' Mile area.

Finding:

- F. The proposed use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales).*

Facts in Support of Finding:

- F-1. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcoholic beverages is intended for the convenience of customers of the restaurant. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol-related impacts.
- F-2. Pursuant to Chapter 5.25 of the Municipal Code, the project has been conditioned to require that the applicant, as well as any future operators of the eating and drinking establishment, obtain an Operator License to ensure the establishment is operated in a safe manner.
- F-3. The subject property is located within a mixed use district developed primarily with commercial uses. Across the Lido Channel, the closest residential district is approximately 800 feet away. To the north, the closest residential district is almost 500 feet away. The nearest park is located on Cliff Drive above West Coast Highway and is over 500 feet from the subject property. There are no day care centers, recreation facilities, places of religious assembly, or schools in close proximity to the subject property.

Finding:

- G. The parking facility is located within a convenient distance to the use it is intended to serve.*

Facts in Support of Finding:

- G-1. The off-site parking lot is less than 500 feet away from the subject property.

- G-2. Valet service will be available on-site allowing customers to drop off their cars at the restaurant site.

Finding:

H. On-street parking is not being counted towards meeting parking requirements.

Facts in Support of Finding:

- H-1. The required amount of parking is 43 spaces. The project provides 12 on-site spaces and 20 off-site spaces; therefore, a parking requirement adjustment of eleven (11) parking spaces is required.
- H-2. Ninety-one (91) public parking spaces (on street, municipal lot) are located within a short walking distance to the subject property; however, those spaces are not being counted towards meeting the parking requirement.

Finding:

I. Use of the parking facility will not create undue traffic hazards or impacts in the surrounding area.

Facts in Support of Finding:

- I-1. Employees and patrons parking in the off-site parking lot can walk down Tustin Avenue and cross at the cross walk, so there will not be any undue traffic hazards from pedestrians.
- I-2. Valet service will be available so customers can drop off their cars at the restaurant site. The valet plan will be reviewed and approved by the City Traffic Engineer.
- I-3. The Parking Management Plan will address the use of the off-site parking lot and valet operations.

Finding:

J. The parking facility will be permanently available, marked, and maintained for the use it is intended to serve.

Facts in Support of Finding:

- J-1. The applicant will secure a lease for 20 parking spaces within the lot located at 2615 Avon Street. If those parking spaces become unavailable in the future, the applicant will notify the Community Development Director who will establish a reasonable time for substitute parking to be provided or the net public area of the restaurant to be decreased.

- J-2. The off-site parking spaces will be clearly marked for use by employees and customers of 2601 West Coast Highway.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Conditional Use Permit No. UP2011-001, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 9th DAY OF JUNE, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Earl McDaniel, Chairman

BY: _____
Michael Toerge, Secretary

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval, except as modified by applicable conditions of approval.
2. The Conditional Use Permit shall be reviewed by the Planning Commission within one (1) year of the restaurant being in operation.
3. The hours of operation shall be limited to between 11:00 a.m. and 11:00 p.m., daily, unless the operator of the establishment secures and maintains an Operator License pursuant to Chapter 5.25 of the Municipal Code. In no case shall the establishment be permitted to operate beyond the hours of 2:00 a.m.
4. The outdoor dining patio shall be closed no later than midnight, daily.
5. The Operator License required to be obtained pursuant to Condition No. 3 and Chapter 5.25 of the Municipal Code may be subject to additional and/or more restrictive conditions to regulate and control potential late-hour nuisances associated with the operation of the establishment.
6. All windows shall remain closed at all times after 11:00 p.m., daily.
7. The outdoor dining area shall be limited to 25 percent of the interior net public area.
8. Live entertainment is limited to Saturdays and Sundays from 2:00 p.m. to 7:00 p.m.
9. There shall be no live entertainment allowed on the premises without first obtaining a live entertainment permit from the City.
10. Noise from the live entertainment shall be confined to the interior of the structure.
11. The applicant shall provide licensed security personnel (a minimum of one (1) per 50 patrons) while offering live entertainment. A comprehensive security plan for the permitted use shall be submitted for review and approval by the Police Department. Should security personnel not be deemed necessary by the Chief of Police, the requirement for security personnel may be reduced or waived.
12. There shall be no dancing allowed on the premises or Cafe Dance permit issued without an amendment to this Conditional Use Permit.
13. Conformance with the Parking Management Plan shall be required at all times.
14. A parking agreement, which guarantees the long term availability of the off-site parking facility for the use located at 2601 West Coast Highway, shall be recorded with the

County Recorder's Office. The agreement shall be in a form approved by the City Attorney and Community Development Director.

15. All parking in conjunction with this use shall be confined to the parking lots over which the applicant, owner, or operator has written rights to park. If, in the opinion of the Community Development Director or City Traffic Engineer, the proposed use creates parking congestion at the site, the applicant shall immediately resolve the congestion problem by increasing valet attendants or through other means until the parking congestion is eliminated and parking is properly managed. Adequate valet personnel shall be provided to eliminate queuing onto West Coast Highway. The Community Development Director or City Traffic Engineer has the discretion to require the preparation and implementation of a revised Parking Management Plan.
16. The parking lot layout including any future changes shall be subject to the review and approval of the City Traffic Engineer.
17. The valet plan shall be reviewed and approved by the City Traffic Engineer.
18. The applicant shall fully cooperate with the City, Caltrans, and adjacent property owner to the east with regards to any future construction of the fourth leg of the signalized West Coast Highway/Tustin Avenue intersection. The fourth leg of the intersection is a vital component to improve the valet operation by providing a signalized approach to the driveway. Should this signal improvement not be planned and/or constructed, the City Traffic Engineer shall require, and the applicant is responsible for the implementation of other corrective measures deemed necessary in order to ensure adequate and safe vehicular access and valet parking operations. The current configuration only permits right turn in and right turn out from the existing driveway.
19. All delivery trucks shall be required to service the restaurant from on-site and shall be prohibited from loading/unloading on West Coast Highway. Deliveries shall be scheduled outside of the peak operating hours of the restaurant so that access to the side will not be blocked.
20. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Community Development Director.
21. The property owner shall provide a 10-foot wide irrevocable pedestrian easement along the bay front on the inland side of the existing bulkhead.
22. Delivery vehicles for food delivery service offered as part of the restaurant operation shall not park in the public right-of-way when not in use. The food delivery service loading and unloading shall occur on-site. The food delivery service shall be prohibited from loading and unloading within the West Coast Highway right-of-way.
23. No recreational vehicles, boats, or similar vehicles shall be stored at any time at the subject site.

24. Prior to issuance of a building permit, approval from the County of Orange Health Department is required.
25. A grease interceptor shall be installed, subject to review by the Utilities Division and Building Division.
26. Disabled access shall be provided to dining areas or equivalent seating areas and disabled seating shall be provided at the bar.
27. Access compliance and sufficient number of bathroom fixtures shall be provided for the bathrooms.
28. Replacement of 4TT box and lid on the existing clean-out shall be required.
29. Backflow devices may be required, depending on the final design of the project, subject to review by the Utilities Division.
30. Replacement of the sewer lateral may be required, subject to review by the Utilities Division.
31. A kitchen fire suppression system may be required for the hood, subject to review by the Fire Department.
32. All owners, managers, and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.
33. Approval of this Conditional Use Permit does not permit Dry Dock to operate as a bar, tavern, cocktail lounge, or nightclub, as defined by the Municipal Code, unless a new or amended Conditional Use Permit is first approved by the Planning Commission.
34. Full menu service shall be available for ordering at all times that the restaurant establishment is open for business.
35. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
36. Food from the full service menu must be made available during any "happy hour" type of reduced price alcoholic beverage promotion. There shall be no reduced price alcoholic beverage promotion after 9 p.m.
37. "VIP" passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order or sale of drinks, is prohibited.

38. The use of private (enclosed) "VIP" rooms or any other temporary or permanent enclosures separate from public areas is prohibited.
39. The operator shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
40. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
41. There shall be no on-site radio, television, video, film, or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved Special Event Permit issued by the City.
42. Strict adherence to the maximum occupancy limits is required.
43. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
44. All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of Chapter 20.42 of the Newport Beach Municipal Code.
45. There shall be no exterior advertising or signs of any type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverage. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
46. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
47. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
48. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
49. This Conditional Use Permit may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health,

welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

50. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Conditional Use Permit or the processing of a new Conditional Use Permit.
51. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.
52. All lighting shall conform with the standards of Section 20.30.070 (Outdoor Lighting).
53. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.
54. No outside paging system shall be utilized in conjunction with this establishment.
55. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
56. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
57. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
58. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Department. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
59. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
60. A Special Event Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, or involve the sale of alcoholic beverages, or include any form of

on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

61. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
62. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
63. Conditional Use Permit No. 2011-001 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
64. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Dry Dock Restaurant including, but not limited to, the Conditional Use Permit No. UP2011-001. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Attachment No. PC 2

Applicant's Project Description

Planning Commission: Dry Dock (working title)

Objective: To provide a high quality, upscale Bar-B-Que restaurant for the citizens of Newport Beach; and establish the first restaurant delivery service that will provide late night *Quality* dinners to all of Newport. Our objective is to have delivery starting at 5:00 p.m. and run continuously until 1:30 A.M., seven days a week.

The restaurant delivery service will specialize in three items only; Baby Back Ribs, Wood Fired Thin Crust Pizza, and Broasted Chicken. These three items have proven to "travel" very well, and upon receipt remain hot, fresh and as good as they were coming out of the kitchen a short while ago.

This will be the first "Upscale Delivery" restaurant in existence as far as I know; that will be completely designed and fabricated to accommodate large scale "ToGo / Delivery" services to the entire community. The kitchen will be entirely designed with state of the art equipment, such as numerous monitors and G.P.S. systems to track and schedule deliveries, multiple phone lines and large receptionist area to accommodate incoming calls, and staging areas to provide for the four custom built "oven" vans that will be used, to serve the 86,0000 citizens that that are anxiously awaiting a return to B-B-Que.

The restaurant itself will serve these three items in addition to the normal "comfort" food usually found in a Bar-B-Que establishment. Hamburgers, Hot Dogs, Brisket, Steaks and some Seafood will be available on site; with all of the usual side dishes.

Intention: It is our sincere intention to bring back the small town, village atmosphere that Mariners Mile has always had to some extent, and try to replicate the feeling of a "real" local restaurant that has been there for forty some years. We have contracted with the design team of *Hatch Design Group*, who will be coordinating all of the exterior colors and redesigning the interior to replicate the restaurants that were around 50 to 60 years ago selling great Bar-B-Que.

I have lived in Newport Beach for 58 years and remember well the Tony Roma's that was located across the street from our location. The place was a huge success for many years and virtually was the only place in town to get Bar-B-Que. Since their closure, Newport has virtually not had any place to go for good Smoke House Bar-B-Que. My good friend Craig Hoffman has done a spectacular job opening up a dozen *Lucille's Smoke House Bar-B-Que's* all over Southern California. They have become so popular that he has changed many of his *Hof's Hut's* into *Lucille's*; taking the average 3 million dollar location, and turning them into 8 million dollar locations.

It is my opinion Mariner's Mile is in a state of severe decline, and it is at the point now that it will either recover and become a vibrant village type atmosphere catering to the citizens of Newport and the tourist industry; or it will continue its current path of decay and become virtually user unfriendly.

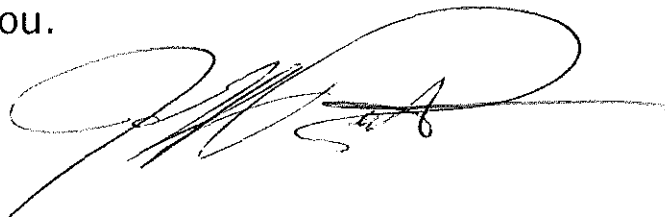
Observation: I am fully aware of the fact, that when we go to dine in Laguna Beach, we will be walking a short distance to the restaurant that we will be eating at. All three of my favorite and extremely successful restaurants do not have one parking place allocated to them anywhere within several blocks of the establishments, and it doesn't bother me in the least or deter customers. They have access to a large City Parking structure (per code) that I have never used in over

fifty visits. In fact it always makes it a more enjoyable experience to take a short walk through the "Village Atmosphere" before and after dining.

Goal: Our goal is to help re-make this particular section of Newport Beach, an area that has historical significance, a fun and exciting place for everyone. The current trend of desperately trying to upgrade the area leading into Mariner's Mile seems to be happening. Several of the buildings are in the middle of refurbishment, Billy's and A'Maree's remodel are now completed and ready for new customers; and Dolce appears to be coming along. We would like to spend a large amount of money refurbishing the existing *Josh Slocum's*, and turn it into a much desired, and long awaited, very "Newport" Bar-B-Que establishment.

In Closing: For many, many years The (old) Dry Dock restaurant, and following that Josh Slocum's, provided a fantastic, rustic atmosphere that served good food to tens of thousands of people over the years. The parking lot has not changed in size. The available off-site parking has not changed in size. The building has not changed in size. The rules and regulations have, and that is ok, and should be used as a "guideline" to help make decisions on new projects that are going to be built from scratch, and existing buildings that are requesting to be expanded. I am respectfully requesting that the parking requirements be modified in this particular location, and to be given a variance to continue operations as they have been for the last forty years. With the additional 20 spaces that will be leased at an expense of \$ 36,000.00 PER YEAR, it is our professional opinion we will be able to be a success, and turn a profit after recuperating the millions of dollars that will be invested, in the "long term".

Thank You.

A handwritten signature in black ink, featuring a large, stylized 'J' and 'S' that are interconnected, followed by a horizontal line and a small flourish.

The Dry Dock Restaurant

Parking Management Plan

Prepared by: Choate Parking Consultants

Date: December, 2010

Revised: March 02, 2011

Revised: April 22, 2011

RECEIVED BY
PLANNING DEPARTMENT
APR 25 2011
CITY OF NEWPORT BEACH

The Dry Dock Restaurant

2601 West Coast Highway, Newport Beach, California 92658

Parking Management Plan

Project Description:

Mr. Jeff Reuter, the applicant, is proposing to develop and operate a restaurant to be known as The Dry Dock Restaurant to be located in the current vacant restaurant building located at 2601 West Coast Highway. Implementation of the proposed eating and drinking establishment and to modify the off-street parking requirements, a parking management plan is required. The Dry Dock Restaurant is located within the area known as the Mariner's Mile. This area is rich with local restaurants and a neighborhood atmosphere. It is an area of the City that may develop into an area that invites patrons to enjoy a period of visiting more than one location on their visit and encourages the concept of park once and walk to one or multiple locations during each patron visit. The Dry Dock Restaurant is intended to provide that local neighborhood feel, catering to the citizens of Newport Beach and to out of town visitors and tourists. The proposed restaurant menu will provide a menu that is missing from Newport Beach eateries and will be the first in the City to provide upscale delivery service.

Mr. Reuter's goal is with the opening of The Dry Dock Restaurant to help begin the process of revitalizing the particular section of Mariner's mile on West Coast Highway, an area that has historical significance and a fun and exciting place for everyone. Several other restaurants in the area have begun refurbishment and The Dry Dock Restaurant will add to the rekindling of this area becoming a destination location in Newport Beach.

This parking management plan provides a description of existing conditions, and proposed parking management plans for the parking needed for the restaurant. It provides an analysis of available parking both in the daytime and the evening hours and details how parking will be provided and managed.

Parking Requirements:

The Dry Dock Restaurant is proposed to provide lunch and dinner services, seven days a week. Its operating hours will be from 11 am to 2 am on weekdays and weekends. The restaurant layout consists of approximately 1,719 square feet of net public area, requiring 1 parking space per 40 square feet of net public area or 43 parking spaces.

Parking Space Availability:

Due the narrow site constraints, parking spaces required for the restaurant will include 12 on-site spaces and 20 off-site spaces which will be leased and available for use as self-park spaces during the daytime

and valet parked spaces during the evening hours and on weekends. The balance of the eleven (11) required parking spaces will be provided from the existing one hundred and ninety-three (193) public parking spaces available in metered parking and an off-site public parking lots. As shown on exhibit #1, all of the parking is located within a 600' radius from the restaurant location. Other restaurants on wider lots are able to provide tandem parking along with the valet service. This gives them the flexibility to provide most, if not all, of their required parking on site. Unfortunately, the Dry Dock Restaurant lot is too narrow and is unable to take advantage of a tandem parking layout and accommodate a higher number of On-site parking.

Parking space occupancy counts were collected at adjoining restaurants throughout week of November 22 through December 4, 2010.

Weekday parking space counts and occupancy is provided in the chart below.

Rest. Name	Pkg. Space No.	No.of Veh. 11 a	No.of Veh. 12 p	No.of Veh. 1 p	No.of Veh. 2 p	No.of Veh. 3 p	No.of Veh. 4 p	No.of Veh. 5 p	No.of Veh. 6 p	No.of Veh. 7 p	No.of Veh. 8 p
Billy's / Chart House	67	1	6	8	6	4	8	16	26	28	41
3 Thirty 3	54	16	11	14	10	4	12	8	10	21	28
Rusty Pelican	67	4	6	8	6	7	5	9	9	14	16
Ave. Occupancy	188 Spaces	11%	12%	16%	12%	8%	13%	18%	24%	34%	45%

Twenty off-site parking spaces will provided through off-site parking spaces leased for this purpose. Valet attendants are proposed to pick-up and drop-off vehicles from a designated curb side location located off-street within the parking lot. Valet service is only projected to be necessary during the evening hours of operation. The combination of the 12 On-Site parking spaces and 20 Off-Site Leased parking spaces are projected to provide adequate parking during the daytime lunch and afternoon service. See exhibit #1.

Off-site spaces are proposed to be signed and designated within the lot for use by The Dry Dock Restaurant patrons and employees.

Parking Management Plan:

Twelve parking spaces are provided for the restaurant on-site (see exhibit #1). These spaces include one accessible parking space (ADA). Delivery service will take place during the hours prior to the opening of the restaurant and existing on-site spaces would be available for loading purposes.

The on-site spaces are proposed to be managed as self-parked spaces from 11 am until 6 pm, seven days per week. During the evening hours, these spaces will be valet parked. After 6pm all metered parking is free and readily available for patrons to use if the Dry Dock restaurant's allocated 32 (On-site and leased Off-site) parking spaces will not suffice. There are approximately 193 metered/unmetered parking spaces within the vicinity. All together there would be 225 parking spaces available for patrons to utilize within a 600 foot or a five to seven (5-7) minute walk to the restaurant.

Off-Site Parking:

Off-site spaces located approximately one block or about 300 feet from the restaurant site. These spaces will be available to the Dry Dock Restaurant anytime during operating hours. These spaces would be available for patrons to self-park and walk to the restaurant during daytime operating hours and will be valet parking during the evening hours.

Valet parking, if needed or desired for restaurant patrons will be provided to patrons on site. The parking lot located at the northwest corner of Avon Street and Tustin Street will be the location for valet parked cars.

Off-site Parking Space Leases:

20 off-site parking spaces will be leased from Mr. Ned McCune. These spaces are located in the lot located at the northwest corner of Tustin Avenue and Avon Street.

Valet Operations:

A commercial parking operator will be hired to provide parking valet services for the restaurant during evening hours after 6 pm. Valet attendants will pick-up and drop-off vehicles at the kiosk located within the parking lot, as shown on the parking plan. Valet attendants will provide valet kiosks, key lock box, umbrellas, signage, tickets, and, etc. for the valet service. Valet attendants will drive vehicles to off-site parking areas and will retrieve and return vehicles to the same location for customers. Valet services are proposed to be provided seven days a week from 6 p.m. to closing time.

Parking Comparisons

It is recognized from the survey conducted that the peak hours of the local restaurants are during the diner hours or after 6pm. During the day, no more than 50% of their On-site allocated parking is utilized. This doesn't include the off-site parking that every restaurant is mandated to lease in order to comply with the local parking requirement. During the day patrons do not have issues finding on-site parking at the local restaurants. During peak hours, after 6pm, On-site parking lots are typically valet only, which entices patrons to seek, metered parking first since it is free after 6pm. 193 public parking spaces will be readily available for patrons to use if the Dry Dock restaurant's allocated 32 (On-site and leased Off-site) parking spaces will not suffice.

It is not the intention of any business owner to lose their clientele for the lack of parking at the establishment. If anything, business owners wish they could provide more than enough On-site parking if site constraints permitted. Even though per code the Dry Dock restaurant is required to allocate 43 parking spaces, the business owner feels that it is beyond what his business will currently need and has agreed to provide 12 On-site and lease another 20 Off-site parking spaces for a total of 32. After all part of his business objective is to provide and be recognized for upscale delivering service of quality dinners. It is a goal that the majority of the cliental will be calling in their orders for delivery. Unlike other restaurants who base their success off site dinning. Needless to say, if the owner felt the business was suffering by the lack of parking that is providing, it would be the motive to acquire additional parking to meet his needs.

Dry Dock (working title)

Valet Management Plan:

It is the intension of the restaurant to have a comprehensive Valet plan that will accommodate all of the needs of the patrons of the restaurant and meet the City of Newport Beach requirements. This plan may change as it becomes more obvious as to when the busiest times are for the restaurant; but our intention is to have numerous Valet parkers on site at all times, or if the on-site parking lot becomes half full at any given time period.

The Valet stand has been located in the middle of the parking lot so as to accommodate the cars entering without ANY back up on to the Coast Highway. The attendants will be able to usher in the last car and immediately block the entrance with a large movable sign stating that the lot is full so as to NOT impede the traffic.

We do not want ANY unhappy customers, and will do whatever is necessary to make sure their parking experience is as painless as possible. It is therefore our intention to be able to control the situation so as when the last car is brought in for valet parking on site; and the lot is full across the street, we can expeditiously implement the sign and the traffic should then remain clear to proceed to one of the hundreds of metered and unmetered parking spaces available within a very short distance.

The Valets will use the crosswalks at ALL times while utilizing the Valet parking location that we control across the street; and will exit only to the right upon leaving the restaurant lot, proceed down to the signal and make a legal U turn and proceed to the Valet lot across from the restaurant.

All patrons that Valet will be told in ADVANCE that their cars will take approximately ten minutes to retrieve if their car has to be parked at our satellite location; like most of the restaurants in the larger cities such as Los Angeles, or smaller cities with historic locations, people understand and are fine with the wait as long as they are told in advance. Yet, it is my sincere feeling, and given the "Mariner's Mile atmosphere" (that hopefully will be like Laguna Beach in the near future) people will park anywhere in the vicinity, as they did for the last forty years, and enjoy the short, healthy walk.

Thank You.

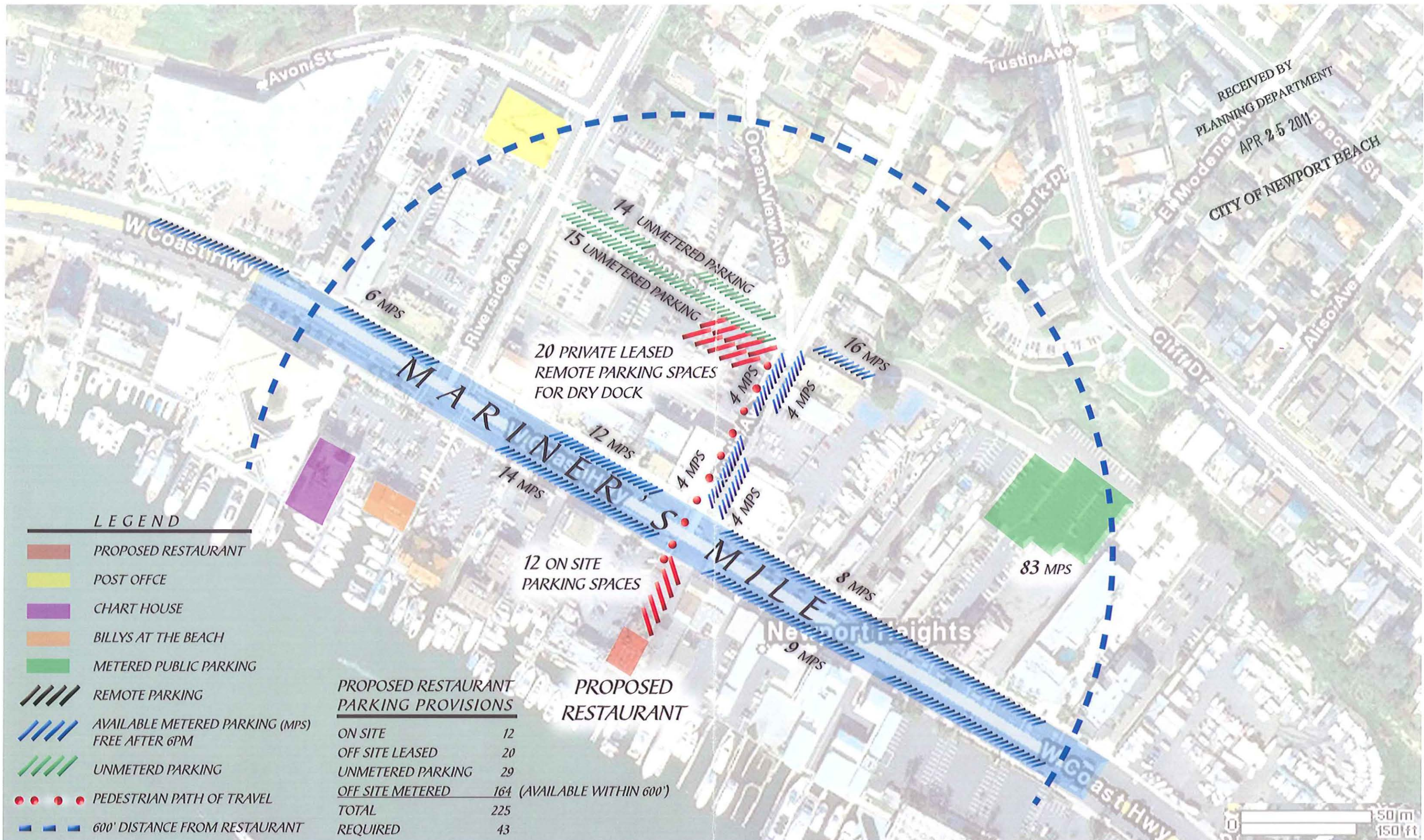
Jeff Reuter

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APR 25 2011

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RESTAURANT ON SITE, 20 OFF SITE LEASED AND AVAILABLE METERED STREET PARKING
MARINERS VILLAGE- REMOTE PARKING
2601 PACIFIC COAST HIGHWAY NEWPORT BEACH, CA 92663

4.22.2011

Attachment No. PC 3

Parking Management Plan

Parking Management Plan (PA2011-005)
2601 West Coast Highway
Dry Dock Restaurant
June 9, 2011

The following Parking Management Plan is provided pursuant to Section 20.40.110 (Adjustments to Off-Street Parking Requirements) of the Zoning Code. The Parking Management Plan will employ the following management mechanisms to mitigate impacts associated with reducing the off-street parking requirement by eleven (11) parking spaces as required by Chapter 20.40 of the Zoning Code:

Off-Site Parking

- Twenty (20) off-site parking spaces shall be available at 2615 Avon Street for use by the applicant's employees and patrons.
- The off-site parking spaces shall be clearly marked for use by employees and patrons of 2601 West Coast Highway.
- Employees who drive to work shall park at the off-site parking lot at 2615 Avon Street.
- The applicant shall immediately notify the Community Development Director of any change of ownership or use of the property at 2615 Avon Street, or of any change in the agreement between the parties.
- Upon notification that the off-site parking spaces are no longer available, the Community Development Director shall establish a reasonable time in which one of the following shall occur:
 - Substitute parking is provided that is acceptable to the Community Development Director; or
 - The size or capacity of the use subject to this Conditional Use Permit is reduced in proportion to the parking spaces lost.

Valet Operations

- Valet drop off and pick up shall occur on-site. Valet pick up and drop off is prohibited in the public right-of-way.
- Valet attendants shall use the crosswalk when crossing West Coast Highway and shall obey all traffic laws while transporting vehicles to and from the off-site parking area.
- The approved valet/parking plan shall be implemented by the applicant or future operator of the restaurant at all times. Adequate valet personnel shall be provided to eliminate queuing onto West Coast Highway.
- If the valet operations are insufficient to meet the needs of the proposed use, then the valet operations and Parking Management Plan will need to be modified and reviewed by the City Traffic Engineer and Community Development Director.

Attachment No. PC 4

Parking Counts



PA2011-005
UP2011-001 - Dry Dock
2601 West Coast Highway



Parking Survey - 2615 Avon Street

The table reflects the number of cars parked in the parking lot out of 122 available

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Time	04/25/2011	04/26/2011	04/27/2011	04/28/2011	04/29/2011	04/30/2011	05/01/2011
10:00 AM	43						
11:00 AM					59		
12:00 PM	42			67			
1:00 PM			58				
2:00 PM							
3:00 PM							
4:00 PM	43		46				
5:00 PM							
6:00 PM				21			
7:00 PM							
8:00 PM							
9:00 PM							
10:00 PM							
11:00 PM							
12:00 AM							
1:00 AM							
Average Cars	43		52	44	59		
Percent Full	35%		43%	36%	48%		
	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Monday
Time	05/03/2011	05/04/2011	05/05/2011	05/06/2011	05/07/2011	05/08/2011	05/09/2011
10:00 AM				50			36
11:00 AM							
12:00 PM				60	42		
1:00 PM			55			24	
2:00 PM							
3:00 PM							
4:00 PM							
5:00 PM					15		
6:00 PM							
7:00 PM							
8:00 PM				14			
9:00 PM							
10:00 PM					11		
11:00 PM							
12:00 AM							
1:00 AM							
Average Cars			55	41	23	24	36
Percent Full			45%	34%	19%	20%	30%

Average Cars	40
Percent Full	33%

Parking Survey - Public Parking in the Vicinity

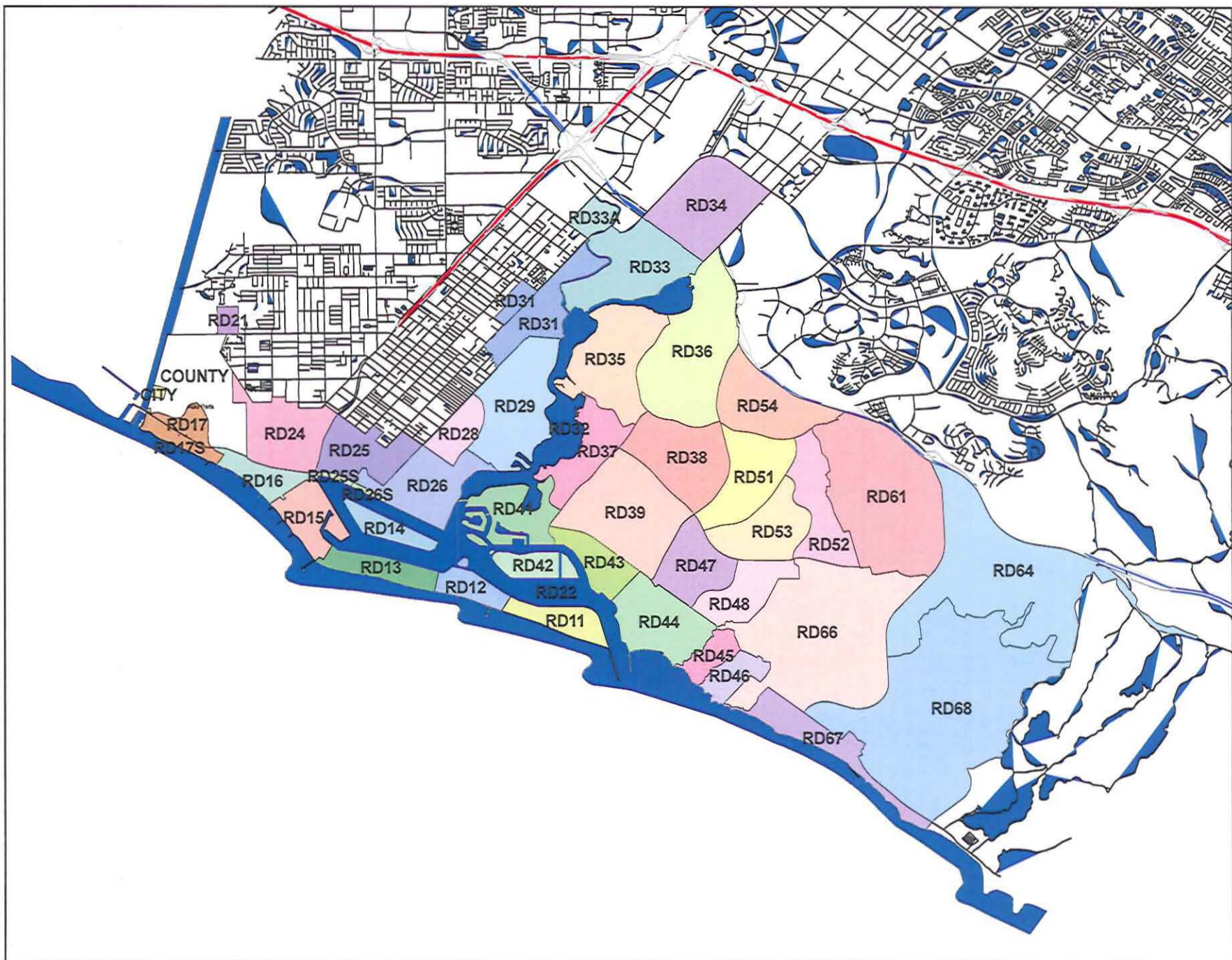
The table reflects the number of cars parked in public parking spaces out of 91 available

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Time	05/16/2011	05/17/2011	05/18/2011	05/19/2011	05/20/2011	05/21/2011	05/22/2011
10:00 AM							
11:00 AM							
12:00 PM							
1:00 PM		55	49				61
2:00 PM						37	
3:00 PM							
4:00 PM				45			
5:00 PM							
6:00 PM							
7:00 PM							
8:00 PM	20					73	
9:00 PM							
10:00 PM							
11:00 PM							
12:00 AM							
1:00 AM							
Average Cars	20	55	49	45		55	61
Percent Full	22%	60%	54%	49%		60%	67%

Average Cars	49
Percent Full	53%

Attachment No. PC 5

Reporting District Map and Crime
Statistics



C i t y o f N e w p o r t B e a c h
P o l i c e D e p a r t m e n t
M e m o r a n d u m

February 22, 2011

TO: Fern Nueno, Assistant Planner

FROM: Paul Salenko, Crime Analyst

SUBJECT: Alcohol Related Statistics

At your request, our office has reviewed police services data for the **Dry Dock Restaurant at 2601 West Coast Hwy.** This area encompasses our reporting district (RD) number 25 as well as part of Census Tract 634. This report reflects **City of Newport Beach** crime data for calendar year 2009, which is the most current data available.

Calls for Service Information

City wide there were approximately 69,294 calls for police services during this time, of which 3,049 were in **RD25**. A "call for service" is, *any contact of the police department by a citizen which results in the dispatching of a unit or causes the contacted employee to take some sort of action*, such as criminal investigations, alarm responses, traffic accidents, parking problems, and animal control calls, etc.

Crime Information

There were 6,194 crimes reported to the Newport Beach Police Department during this period. Of this total, 2,884 were Part One Crimes. Part One crimes are the eight most serious crimes (*Homicide, forcible Rape, Robbery, Aggravated Assault, Burglary, Larceny-theft, Auto Theft and Arson*) as defined by the FBI in the Uniform Crime Reports. The remaining 3,350 were Part Two crimes. The Part One crime rate for the entire city during this same period was 3,297.31 per 100,000 people. The national Part One crime rate was 3,465.52* per 100,000 people.

Crimes	RD 25	Newport Beach	California*	National*
Part 1	113	2,884	1,184,073	10,639,369927
Part 2	88	3,350	N/A	N/A
Part 1 Crime Rate	3,868.87	3,297.31	3,203.52	3,465.52

The number of active ABC licenses in this RD is 21**

Per capita ratio 1 license for every 139 residents.

This reporting district had a total of 248 reported crimes as compared to a City wide reporting district average of 162 reported crimes. This reporting district is 86 crimes more or 53.09% above the City wide reporting district average. This location is within an RD that is over the Orange County per capita average of ABC licenses**.

Arrest Information

There were 27 DUI arrests and 20 Plain Drunk arrest in this area during this same period as compared to 1,270 for the entire city. This RD amounts to 3.7% of the DUI/Drunk arrests made in the entire City. According to a recent national study by the Department of Justice, more than 36% of adult offenders convicted of crimes in 1996 had been drinking at the time of their arrest.

Arrests (DUI/Drunk)	RD 25	Newport Beach	California*	National*
	47	1,270	336,008	2,094,465
Total Arrests	113	3,595	1,547,811	14,005,615

Additional Information

The Alcoholic Beverage Outlets ordinance states that the Planning Commission shall consider the crime rate in the adjacent reporting districts. The two adjacent reporting districts you requested are RD 24 and RD 16

Crimes	RD 24	RD 16
Part 1	155	167
Part 2	120	107
Crime Rate	3,096.60	6,003.49
Arrests (DUI/Drunk)	79	110
Total Arrests	220	323
Calls For Service	3,898	3,261
Number of active ABC licenses	9**	6**
Per capita ratio1 license for every	556* residents	464* residents.

Note: It is important to remember that when dealing with small numbers any change greatly affects any percentage changes.

The population figure used for the Crime Rate was 86,252.

*These numbers are from the 2009 Uniform Crime Reports, which is the most recent edition.

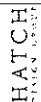
**The number of active ABC licenses is the total of all types of licenses known to the police department as of the date of this document. As of June 30, 2009 the Orange County average of active, retail ABC licenses was 1 license for every 542 residents. (5,589 licenses and a population of 3,026,786)

If you are in need of any further assistance, please contact me at (949) 644-3791.

Paul Salenko
Crime Analysis Unit

Attachment No. PC 6

Project plans

[illegible]

"WORKING TITLE"
THE DRY DOCK

2801 WEST COAST HIGHWAY
NEWPORT BEACH, CA 92663-4708

[illegible]

CA 95 1994

NAVIGATOR

—

—

... and ...

.....

DATE _____

0102-37-7

THE

PLAN

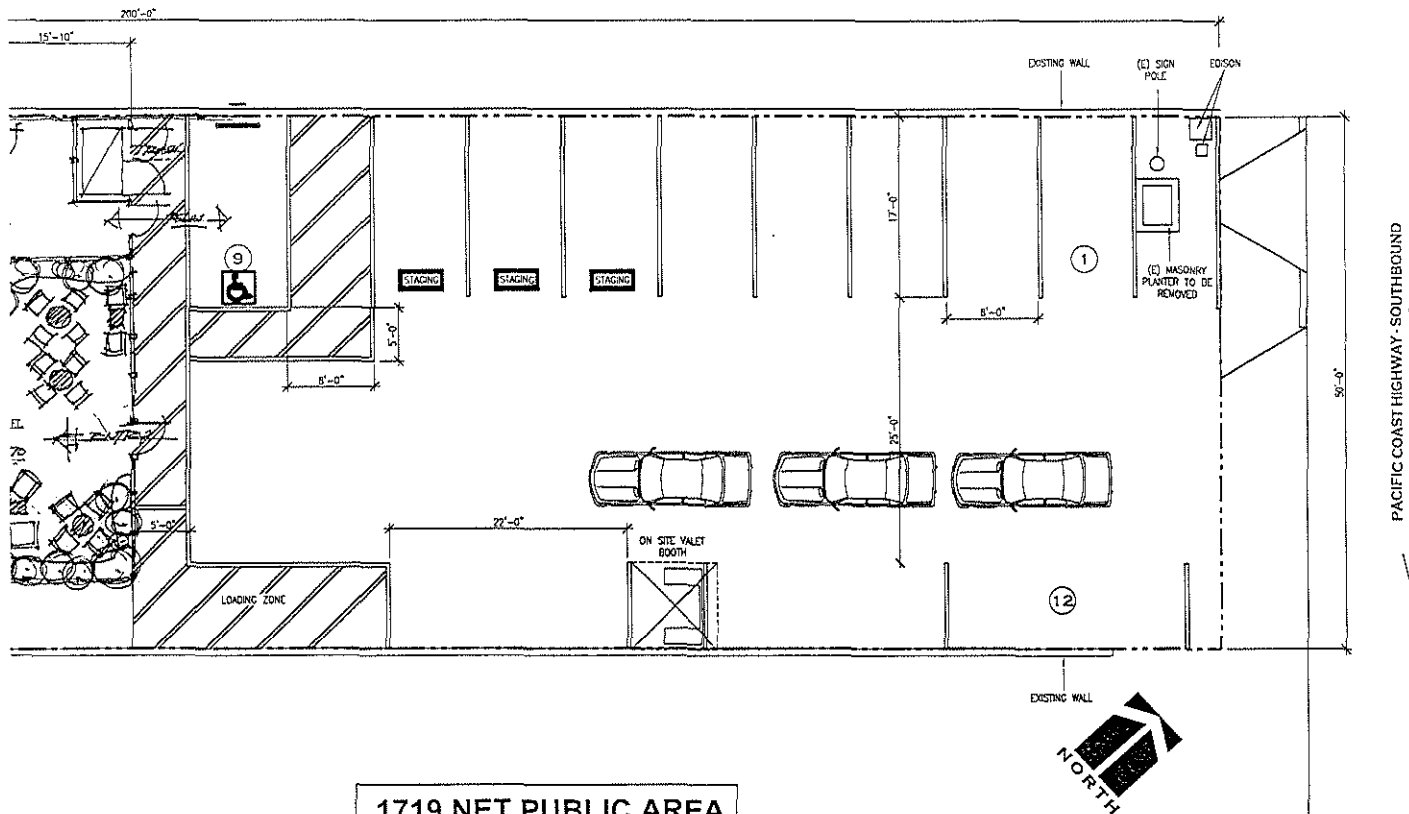
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WORLD

3

PA2011-005 for UP2011-001
2601 West Coast Highway
G.E.P. Enterprise Group

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1719 NET PUBLIC AREA

SCALE:

1/8" = 1'-0"

SEATING

ENTRY PATIO = 22 SEATS
DINING = 90 SEATS
BAR = 10 SEATS

EMPLOYEE COUNT

MAXIMUM OF 9

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PLANNING DEPARTMENT

APR 25 2011

CITY OF NEWPORT BEACH



HATCH
DESIGN GROUP

3399 G AIRPORT LOOP DR.
COSTA MESA, CA 92626
PHONE: (714) 979-8396
FAX: (714) 979-6430
WWW.HATCHDESIGN.COM

"WORKING TITLE"
THE DRY DOCK
2601 WEST COAST HIGHWAY
NEWPORT BEACH, CA 92663-4708